



Reprinted
March 21, 2007

ENGROSSED SENATE BILL No. 38

DIGEST OF SB 38 (Updated March 20, 2007 2:03 pm - DI 84)

Citations Affected: IC 5-22; IC 16-32.

Synopsis: Purchases from persons with disabilities. Provides that before the purchasing agent of a governmental body that is not a political subdivision issues a solicitation for supplies or services, the purchasing agent shall: (1) obtain a written determination from the committee for the purchase of products and services or a person designated by the committee; or (2) certify that the supplies or services cannot be obtained from a nonprofit agency that meets the specifications at a fair market price. Provides that before the
(Continued next page)

Effective: July 1, 2007.

**Meeks, Riegsecker, Rogers,
Simpson, Merritt, Howard, Breau**

(HOUSE SPONSORS — HERRELL, KLINKER, BELL, BATTLES, BOSMA)

January 8, 2007, read first time and referred to Committee on Rules and Legislative Procedure.

January 29, 2007, amended; reassigned to Committee on Commerce, Public Policy and Interstate Cooperation.

February 8, 2007, amended, reported favorably — Do Pass.

February 12, 2007, read second time, ordered engrossed. Engrossed.

February 13, 2007, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

February 26, 2007, read first time and referred to Committee on Government and Regulatory Reform.

March 15, 2007, amended, reported — Do Pass.

March 19, 2007, read second time, ordered engrossed. Engrossed.

March 20, 2007, read third time, recommitted to Committee of One, amended; passed. Yeas 95, nays 0.

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purchasing agent of a governmental body that is not a political subdivision issues a solicitation for a consolidated purchase of supplies or services, the purchasing agent shall: (1) require the vendor to purchase products or services from a catalog of; or (2) establish standards to ensure participation of solicitation by; a nonprofit agency that meets specifications. Establishes requirements concerning a fair market price. Adds employment data to the information included in a quarterly report provided by a participating qualified nonprofit agency for persons with severe disabilities to the committee for purchase of products and services. Specifies that the quarterly report must be made available to the department of administration. Requires that the: (1) state use catalog be updated by the committee for the purchase of products and services not less than every 90 days in a calendar year; and (2) web based electronic version of the state use catalog be considered the catalog of record.

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March 21, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 38

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-22-2-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 2.5. "Consolidated purchase" means the purchase of**
4 **multiple supplies or services from one (1) vendor.**
- 5 SECTION 2. IC 5-22-2-2.7 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2007]: **Sec. 2.7. "Committee" refers to the committee for the**
8 **purchase of products and services established under IC 16-32-2-2.**
- 9 SECTION 3. IC 5-22-13-3 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) This section
11 applies to a governmental body not covered by section 2 of this chapter.
- 12 (b) A governmental body shall purchase supplies and services
13 without advertising or calling for bids from a qualified agency under
14 the same conditions as supplies produced by the department of
15 correction are purchased under IC 5-22-11.
- 16 (c) **Except as provided in subsection (d), before a purchasing**
17 **agent issues a solicitation for supplies or services, the purchasing**

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agent shall do either of the following:

(1) Obtain a written determination within seven (7) business days from:

(A) the committee; or

(B) a person designated by the committee;

that no qualified agency can provide the supplies or services.

(2) Certify that the supplies or services offered by a qualified agency cannot be obtained as required in section 5 of this chapter.

(d) If a purchasing agent issues a solicitation for a consolidated purchase of supplies or services, or both, the purchasing agent shall do either of the following:

(1) Require vendors to purchase:

(A) supplies;

(B) services; or

(C) both supplies and services;

from a catalog of a qualified agency kept by the committee.

(2) Establish scoring standards to ensure participation in the solicitation by a qualified agency.

SECTION 4. IC 5-22-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price as described under subsection (b).

(b) A fair market price under this section must cover for the qualified agency the costs of raw materials, labor, overhead, and delivery cost. In determining the fair market price, the purchasing agent shall use one (1) or more of the following:

(1) Available information from reliable market sources.

(2) A market survey from a person designated by the committee.

(3) Previous contract prices.

(4) The range of bids from the most recent solicitation, including a determination of:

(A) the median price of the bids;

(B) the average price of the bids; and

(C) any market conditions or specifications that have changed since the most recent solicitation.

SECTION 5. IC 16-32-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The committee shall

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1 do the following:

2 (1) Request from any agency of the state or any unit of local
3 government information concerning product specification and
4 service requirements to enable the committee to carry out the
5 intent of this chapter. The requested information shall be
6 furnished to the executive secretary of the committee.

7 (2) Meet as often as necessary to carry out the purposes of this
8 chapter. However, the committee shall meet at least quarterly.

9 (3) Request from each participating qualified nonprofit agency for
10 persons with severe disabilities a quarterly report that describes
11 **employment data and** the volume of sales for each product or
12 service sold under this chapter. **These reports shall be made**
13 **available to the Indiana department of administration.**

14 (4) Establish the price for all products and services provided by
15 persons with severe disabilities and offered for sale to state
16 agencies and units of local government under IC 5-22-13 that the
17 committee determines are suitable for use. The price fixed must
18 recover for the qualified nonprofit agency for persons with severe
19 disabilities the cost of raw materials, labor, overhead, and
20 delivery cost. The committee shall periodically revise the prices
21 in accordance with changing cost factors and adopt necessary
22 rules regarding specifications, time of delivery, and fair market
23 price.

24 (5) Approve and prepare a publication that lists all products and
25 services available from any qualified nonprofit agency for persons
26 with severe disabilities that the committee determines are suitable
27 for procurement. The procurement list and revisions of the
28 procurement list shall be distributed to all purchasing officers of
29 state agencies and units of local government for purchase under
30 IC 5-22-13.

31 (6) Encourage diversity in products and services provided by
32 qualified nonprofit agencies for persons with severe disabilities
33 and discourage unnecessary duplication or competition between
34 facilities.

35 (7) **Update the state use catalog not less than every ninety (90)**
36 **days starting January 1 of each year. The web based**
37 **electronic version shall be considered the catalog of record.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 38, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Commerce, Public Policy and Interstate Cooperation.

(Reference is to SB 38 as introduced.)

LONG, Chairperson

SENATE MOTION

Madam President: I move that Senators Rogers and Simpson be added as coauthors of Senate Bill 38.

MEEKS

SENATE MOTION

Madam President: I move that Senator Riegsecker be added as second author of Senate Bill 38.

MEEKS

SENATE MOTION

Madam President: I move that Senators Merritt, Howard and Breaux be added as coauthors of Senate Bill 38.

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 38, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-22-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2007]: **Sec. 2.5. "Consolidated purchase" means the purchase of multiple supplies or services from one (1) vendor.**

SECTION 2. IC 5-22-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2007]: **Sec. 2.7. "Committee" refers to the committee for the purchase of products and services established under IC 16-32-2-2."**

Page 1, line 8, delete "Before" and insert "**Except as provided in subsection (d), before**".

Page 1, line 10, delete "the director of the" and insert ":

(A) the committee; or

(B) a person designated by the committee;

that no".

Page 1, delete line 11.

Page 1, run in lines 10 through 12.

Page 1, after line 15, begin a new paragraph and insert:

"(d) If a purchasing agent issues a solicitation for a consolidated purchase of supplies or services, or both, the purchasing agent shall do either of the following:

(1) Require vendors to purchase:

(A) supplies;

(B) services; or

(C) both supplies and services;

from a catalog of a qualified agency kept by the committee.

(2) Establish scoring standards to ensure participation in the solicitation by a qualified agency.

SECTION 4. IC 5-22-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) Supplies and services purchased under this chapter must:**

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price as described under subsection (b).

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(b) A fair market price under this section must cover for the qualified agency the costs of raw materials, labor, overhead, and delivery cost. In determining the fair market price, the purchasing agent shall use one (1) or more of the following:

- (1) Available information from reliable market sources.**
- (2) A market survey from a person designated by the committee.**
- (3) Previous contract prices.**
- (4) The range of bids from the most recent solicitation, including a determination of:**
 - (A) the median price of the bids;**
 - (B) the average price of the bids; and**
 - (C) any market conditions or specifications that have changed since the most recent solicitation.**

(c) Once a fair market price is established, the fair market price must remain the same until the committee approves a new price under IC 16-32-2-7."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 38 as printed January 30, 2007.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 38, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 40 through 42, begin a new paragraph and insert:

"SECTION 5. IC 16-32-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The committee shall do the following:

- (1) Request from any agency of the state or any unit of local government information concerning product specification and service requirements to enable the committee to carry out the intent of this chapter. The requested information shall be furnished to the executive secretary of the committee.

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(2) Meet as often as necessary to carry out the purposes of this chapter. However, the committee shall meet at least quarterly.

(3) Request from each participating qualified nonprofit agency for persons with severe disabilities a quarterly report that describes **employment data and** the volume of sales for each product or service sold under this chapter. **These reports shall be made available to the Indiana department of administration.**

(4) Establish the price for all products and services provided by persons with severe disabilities and offered for sale to state agencies and units of local government under IC 5-22-13 that the committee determines are suitable for use. The price fixed must recover for the qualified nonprofit agency for persons with severe disabilities the cost of raw materials, labor, overhead, and delivery cost. The committee shall periodically revise the prices in accordance with changing cost factors and adopt necessary rules regarding specifications, time of delivery, and fair market price.

(5) Approve and prepare a publication that lists all products and services available from any qualified nonprofit agency for persons with severe disabilities that the committee determines are suitable for procurement. The procurement list and revisions of the procurement list shall be distributed to all purchasing officers of state agencies and units of local government for purchase under IC 5-22-13.

(6) Encourage diversity in products and services provided by qualified nonprofit agencies for persons with severe disabilities and discourage unnecessary duplication or competition between facilities.

(7) Update the state use catalog not less than every ninety (90) days starting January 1 of each year. The web based electronic version shall be considered the catalog of record."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 38 as printed February 9, 2007.)

STEVENSON, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 38 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 2, line 2, after "determination" insert "**within seven (7) business days**".

(Reference is to ESB 38 as printed March 16, 2007.)

HERRELL

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 38, begs leave to report that said bill has been amended as directed.

HERRELL

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